



3. Harvest seeks “[a] judgment for monetary damages in the minimum amount of \$187,171.87, including the bad faith penalty and statutory attorney fees.” (*Id.* at ¶ 39).

4. Additionally, Harvest seeks “[a]n award of pre- and post-judgment interest, discretionary costs, and court costs.” (*Id.* at ¶ 40).

### **GROUND FOR REMOVAL**

5. Pursuant to 28 U.S.C. 1446(a), the basis for removal is diversity jurisdiction under 28 U.S.C. § 1332.

6. The Court has jurisdiction over this case pursuant to 28 U.S.C. § 1332 because there is complete diversity of citizenship among the parties and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

7. Accordingly, this civil action may be removed to this Court pursuant to 28 U.S.C. § 1441.

### **Plaintiff’s Citizenship**

8. Harvest is a limited liability company organized under the laws of Tennessee. (*Id.* ¶ 1).

9. Charles Starritt, Jr. (“Mr. Starritt”) is an individual and “the sole member of Harvest.” (*Id.* at ¶ 4).

10. Mr. Starritt is a citizen and resident of Tennessee.

11. Under applicable law, therefore, Harvest is a citizen of Tennessee.

### **Defendant’s Citizenship**

12. MUSIC is a New Jersey corporation with its principal place of business located in the State of New Jersey. *See* ¶ 7 of the Declaration of Stephen D. Harth (the “Declaration”), which is incorporated by reference as if fully set forth herein and attached hereto as Exhibit A.

### **Complete Diversity of Citizenship**

13. Accordingly, there is complete diversity of citizenship between Plaintiff, Harvest, and Defendant, MUSIC.

### **Amount in Controversy**

14. The amount in controversy requirement for diversity jurisdiction is satisfied in this case because it is clear from the face of the Complaint that the “matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs.” 28 U.S.C. § 1332(a).

15. Harvest seeks “monetary damages in the minimum amount of \$187,171.87, including the bad faith penalty and statutory attorney fees.” (Complaint at ¶¶ 39).

### **DATE LAWSUIT FILED**

16. Harvest filed its Complaint in the Circuit Court of Sevier County on March 12, 2020.

### **DATE LAWSUIT SERVED**

17. The Summons was issued on March 12, 2020.

18. On March 18, 2020, the Tennessee Department of Commerce and Insurance—MUSIC’s statutory agent for service of process—accepted service of process for MUSIC, pursuant to Tenn. Code Ann. § 56-2-504 or § 56-2-506. (*See* Declaration at ¶ 9).

19. As indicated by its letter dated March 18, 2020, and its envelope postmarked March 19, 2020, the Tennessee Department of Commerce and Insurance forwarded several case documents and filings, including copies of the Summons and Complaint, to MUSIC. (*See* Declaration at ¶¶ 8-9).

20. MUSIC received via certified mail these case documents and filings, including copies of the Complaint and Summons, on March 25, 2020, which was the first notice MUSIC

received regarding the commencement of this action. (Declaration at ¶ 10).

21. Accordingly, this Notice of Removal is timely, in accordance with 28 U.S.C. § 1446(b)(1), because it is being filed within 30 days of March 25, 2020. *See, e.g., State Insulation, LLC v. Great Am. Ins. Co.*, No. 3:09-CV-526, 2010 WL 11639829, at \*2 (E.D. Tenn. Mar. 30, 2010).

22. No other process, pleadings, or orders have been served upon or filed by the parties, and there have been no further proceedings in the Circuit Court of Sevier County, Tennessee as of this date. Copies of all process, pleadings, and orders filed in the Circuit Court of Sevier County, Tennessee are attached collectively hereto as Exhibit B. *See* 28 U.S.C. § 1446(a).

### **VENUE IS PROPER**

23. The lawsuit is a civil action over which this Court has original jurisdiction under 28 U.S.C. § 1332 and is one which may be removed to this Court under 28 U.S.C. §§1441 and 1446. Further, pursuant to 28 U.S.C. § 1446(a), the United States District Court for the Eastern District of Tennessee Knoxville Division is the proper district and division to file this removal based on where the state court action was filed. *See* 28 U.S.C. §123(a)(1).

### **NOTICE OF FILING TO STATE COURT AND ADVERSE PARTIES**

24. Pursuant to 28 U.S.C. § 1446(d), MUSIC is promptly filing a Notice of Filing of Notice of Removal with the Clerk of Circuit Court of Sevier County and giving written notice thereof to all adverse parties. The Notice of Filing is accompanied by a copy of this Notice of Removal.

WHEREFORE, MUSIC requests that this Notice of Removal be filed, that Civil Action No. 20-CV-159I in the Circuit Court of Sevier County, Tennessee be removed to and proceed in this Court, and that no further proceedings be had in civil action No. 20-CV-159I in the Circuit

Court of Sevier County, Tennessee.

This the 17th day of April, 2020.

Respectfully submitted,

/s/ Hannah Kay Hunt Freeman

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*Attorneys for Defendant, Mesa Underwriters  
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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of this Notice of Removal has been served via the Court's electronic filing system and U.S. Mail, first-class postage prepaid, this April 17, 2020, on the following:

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/s/ Hannah Kay Hunt Freeman  
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